

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.873 OF 2007

New India Assurance Co.Ltd. Appellants

versus

Smt.Pramila Pravin Kadam & ors. Respondents

Mr.S.M.Vidyarthi for appellants.

CORAM : A.S.OKA, J.

DATE : 09th March 2007

PC :

1. The submissions of the learned counsel appearing for the appellant were heard on the last day. The appellant is the insurer of the vehicle involved in the accident. The first to fourth respondents are the original claimants who applied for compensation on account of demise of the husband of first respondent in the accident. The fifth respondent herein was the driver of the Auto Rikshaw which was involved in the accident. The Auto Rikshaw was admittedly insured with the appellant on the relevant date. The defence of the appellant was that at the time of accident, the driver of the auto rikshaw was not possessing

a valid driving licence and, therefore, there is a breach of terms and conditions of the policy on the part of the Insured. The contention of the appellant is that the Driver was holding a Learning Licence. The said objection has been over-ruled and award has been made against the appellant.

2. After having heard the submissions of the learned counsel appearing for the appellant, I find that the law on the question is very well settled. In the case of National Insurance Company Limited Vs. Swaran Singh [(2004)3-SCC-297], it was held that the Learner's Licence is also a valid licence and Insurance Company is liable to satisfy the award.

3. In view of the settled position of law, the learned Member of the Tribunal rejected the defence raised by the appellant Insurer.

4. I find no fault with the reasoning adopted by the Tribunal. There is no merit in the appeal and the same is dismissed. If there is any right in law available to the appellant Insurance Company to recover the amount of compensation from the Insured, it will be open for the

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appellant to enforce the right in accordance with law.

5. Civil Application No.3014 of 2006 does not survive and stands dismissed as such.

(A.S.OKA, J.)